HAWAII NEWS

Advocates press for tax on real estate trusts

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Community advocates for affordable housing and education squared off against the real estate trusts that own some of the most lucrative commercial properties in Hawaii on Wednesday, with community activists urging state lawmakers to abolish a state tax break that benefits the trusts.

Entities known as real estate investment trusts own a number of landmark properties in Hawaii such as Ala Moana Center and the International Market Place, and their structure as REITs allows them to avoid paying Hawaii's corporate income tax.

That galls advocates such as Hawaii developer Peter Savio, who has urged lawmakers for several years to close the "tax loophole" that benefits REITs and their shareholders.

“The state is the one who gets screwed. The local taxpayer is the one who gets screwed. Your kids, your parents, your grandparents are being screwed, and paying more taxes, because we’ve allowed the REITs to cheat,” said Savio. “It’s not right. It has to be stopped.”

When Hawaii first incorporated the dividend tax deduction for REITs into the state tax code, “it wan’t a big deal. Nobody knew how much money would be made or lost,” Savio said. “Here we are what, 40 or 50 years later, and we’re losing $60 million minimum a year, possibly $120 million a year.”

Senate Ways and Means Chairman Donovan Dela Cruz urged his committee members to approve Senate Bill 301, which would disallow the state tax deduction for dividends that REITs pay to their shareholders.

However, Dela Cruz warned that the state tax officials estimate the bill would generate far less in extra taxes than Savio suggests if the bill passes. Tax officials calculate the state would receive only about $2.2 million in extra tax revenue the first year, and $10 million per year after that, he said.

Damien Elefante, deputy director of the state Tax Department, said that’s because tax officials believe that if the law was changed, the REITs would adopt other strategies to limit their state tax liabilities.

Under current law, REITs are required to pay out at least 90 percent of their taxable income as dividends to their shareholders each year, and since the state allows them to deduct those dividends for tax purposes, the REITs are able to avoid paying state corporate income taxes on their earnings.

Lawmakers for several years have debated whether to abolish that dividend deduction, but this year that cause has been adopted by Faith Action for Community Equity and other community groups that want to raise money for affordable housing and other causes. FACE is made up of 18 church congregations and five other organizations.

More than two dozen supporters of repealing the REIT dividend deduction crowded into the state Capitol hearing room Wednesday to support SB 301, including FACE co-chairwoman Catherine Graham. She said FACE has been educating its members about the issue, and “it’s amazing that nobody’s ever heard of REITs.”

“This is a well-hidden money maker that our normal citizens don’t know about, and when they find out that the Ala Moana Shopping Center does not pay

income tax to the state of Hawaii, they're kind of floored," she said. "When they find out that the Hilton Hawaiian Village does not pay income tax to the state of Hawaii, they're really outraged."

But representatives from the REITs pointed out the benefits of the investments they have made in Hawaii, including the creation of thousands of jobs.

Brookfield Property REIT is an owner of Ala Moana, and from 2012 to 2016 Brookfield invested almost $1 billion to add retail space and condominiums based on the existing tax structure, said Francis Cofran, the senior general manager of Ala Moana Center.

Brookfield also operates Prince Kuhio Plaza in Hilo and Whalers Village in Lahaina, and the three properties between them annually pay more than $32 million in real property and general excise taxes, which demonstrates "REITs are investing in the economic well-being of the state and its residents," according to Cofran.

"Future expansion plans could be reconsidered if the attractiveness of investing in Hawaii relative to the rest of the United States is diminished through the enactment of this bill," Cofran told lawmakers in written testimony.

Also submitting testimony opposed to the bill was Alexander & Baldwin Inc., which converted to a REIT in 2017, and Taubman Centers, a REIT that with its partners completed the $475 million redevelopment of International Market Place in 2016.

The Hawaii Association of Realtors also testified against the bill along with Public Storage, a REIT that owns 11 facilities in Hawaii.

The bill now goes to the full Senate for further consideration.